



March 15, 2011

Accessibility Directorate of Ontario
Ministry of Community and Social Services
777 Bay Street, Suite 601a
Toronto ON Canada
M7A 2J4

Dear Minister Meilleur:

RE: Proposed Integrated Accessibility Regulation under the *Accessibility for Ontarians with Disabilities Act, 2005 (AODA)*

I am writing on behalf of the London Public Library to provide feedback on the proposed Integrated Accessibility Regulation as posted for public input on February 1, 2011.

The London Public Library is supportive of the integration of the regulations under the *Accessibility for Ontarians with Disabilities Act (AODA)*. The integration will greatly improve the ability for organizations to be engaged in the implementation of the regulation, in a more coherent and responsive manner. We are appreciative of the greater clarity and simplification in the terms of the current draft of the Integrated Accessibility Regulations in terms of compliance not only to the letter but the spirit of the legislation. The adjustment of timelines to allow for more time for implementation is encouraging.

London Public Library is providing comment on the following areas:

Section 19 Public Libraries
Section 7 Training
Section 14 Accessible Website and Web Content
Part 3 Employment

Section 19 Public Libraries

Section 19 (1): "Every obligated organization that is a library board shall provide access to or arrange for the provision of access to accessible materials where they exist."

We would recommend the paragraph be revised as follows:

“Every obligated organization that is a library board shall provide access to or arrange for the provision of access to accessible **formats of works where they **are available, and where it is practicable, with the final determination of the provision of accessible works resting with the library board.**”**

Definition of “works” should be included in the standard, as the term used in the federal Copyright Act and applicable to all works of literary, musical, artistic, and dramatic nature, regardless of format.

Rationale

We note that the paragraph has been revised since the first draft presented in 2010 when referring to the accessible materials. The phrase “where available” in the first draft was changed to “where they exist” in the current draft. We are concerned as this change implies a much broader scope of items, far beyond the capacity of any public library system, no matter what size, to acquire on behalf of its patrons. We are fairly confident that this is not the expectation of the authors of the standard so some clarity needs to be applied to the provision of accessible formats in this section. We recommend returning to the original phrase.

Content vs. Format

The term “accessible materials” is not defined in the standard. We are recommending substitution of the word “works” as the term used in the federal Copyright Act and it is applicable to all works of literary, musical, artistic, dramatic nature. It distinguishes between the intellectual and creative content to which the person is requiring access and the format or communication support that might enable that access. The Copyright Act governs aspects of the utilization of all public library collections and is a key component in the library’s ability to respond effectively to the need for accessible formats. Section 32 (1) of the Copyright Act enables a library to respond to the need at the request of a person with a perceptual disability through the provision of alternate formats of a work, by making a copy of the work in different formats without violating copyright. Such reproductions might be a large print copy, a sound recording of a work, translation with sign language, or the performance of the work.

Provision of accessible formats and communications supports

Under the Ontario *Public Libraries Act*, the library board “shall seek to provide, in co-operation with other boards, a comprehensive and efficient public library service that

reflects the community's unique needs." (RSO 1990 CP.44, Section 20) The library board is accountable to its community in terms of provision of service, including access to works in the collection.

The public library has the potential of offering different accessible formats for "works", such as: hardback, large print, trade paperback, paperback, e-books, audio-books, CDs, DVDs, etc. A "work" may exist somewhere in the publishing world in many different formats.

Best practice in public libraries today is to incorporate many different formats into the offerings to the public in order to meet not only accessibility needs but desires for alternate formats. For example, e-books and audio books are gaining popularity due to the use of handheld devices. However, to expect a public library, large or small, to provide access to a single "work" in all these different formats where they exist would be an enormous strain, and in some cases impossible, on finite and often limited collections budgets. We are fairly confident that this is not the expectation of the authors of the standard.

We would strongly recommend that the library board have the final determination of the provision of accessible formats of works, balancing budget restrictions and community needs and utilizing a variety of communication supports to meet the needs of a person with disabilities if none of the accessible formats of works in the collection meets that need.

Communication supports

Section 19 (1) of the standard refers to access to works that may be acquired in a particular accessible format. Section 12 of the standard addresses more broadly the terms by which the obligated organization shall provide accessible formats and communication supports.

We believe that this section of the standard can be applied to the provision of access to works acquired by a public library for its collections. It establishes specific accountabilities on the part of the obligated organization while at the same time allows the public library the opportunity to bring a variety of communication support options, within its service mandate, to meet the specific accessibility needs of a person. Under this section, the public library would be empowered to utilize communication supports as well as a range of accessible formats of works in its collection to assist people with accessibility needs. Supports, beyond purchasing published formats may include but not be limited to:

- Utilizing Section 32 (1) of the Copyright Act which enables a library to respond to such a need by making a copy of a work in a number of formats;
- Providing a customer service response to a need as identified under the Customer Service Standards of the AODA; and

- Utilizing adaptive technologies such as: Kurzweil reader, magnifier, sound recording; software applications, such as Dragon Naturally Speaking software.

Adjustments to Section 19 (2)

“Obligated organizations that are library boards shall make information about the availability of accessible materials publicly available and shall provide the information in accessible format or with the appropriate communications supports, upon request.”

While we believe that this provision is included under 12(3), we would recommend a change to the wording as indicated below for consistency:

“Obligated organizations that are library boards shall make information about the availability of **accessible formats and communication supports** publicly available and shall provide the information in accessible format or with the appropriate communications supports, upon request.”

We note that the remaining paragraphs of Section 19 (3 through 5) are acceptable.

Section 7 Training

Section 7(1c) indicates that the obligated organization must ensure the training “all other persons who provide goods and services on behalf of the organization”.

We are unsure how to accomplish this in a practical way. The Library engages many individuals throughout the year to provide library programs to the public and it would be very difficult to require these people to come to training sessions at the Library in order to deliver one event. These are not people who are engaged in a regular service function. Moreover, we do not feel that it is the responsibility of the obligated organization to provide other persons, outside its control, with the requirements of the entire Act but rather to the policies and procedures developed by the obligated organization related to the duties performed therein. We would propose that the language be changed to reflect a more contractual obligation on the part of the person providing the goods and services to be familiar, themselves, with the requirements of the AODA.

7 (1c): that the obligated organization require that all other persons who provide goods and services on behalf of the organization to be made aware of the policies and procedures developed by the obligated organization and undertake a contractual obligation to apply them in the course of their duties.

Section 14 Accessible websites and web content

We note that in 14(4), with regards to public sector organizations that the time lines are acceptable as they initially appear. However, we note that the WCAG guidelines are established by the external organization which controls the issuing of upgrades to these requirements. There is not control by the Ministry on the issuing of these upgrades. Consequently, there may be significant impact of the issuing of upgrades on the ability for any organization to comply under section 14. For example, if the WCAG issues an update to WCAG2.0 Level A on December 1, 2013, an obligated organization may not be able to meet the January 1 2014 deadline.

There needs to be built into the standards under this section, the ability to extend the compliance period, if an update occurs within six months of the scheduled deadline. This situation will require monitoring on the part of the Ministry.

Part 3 Employment standards

Sections 28 and 29 require the obligated organization to prepare documented individual accommodation and return to work plans. There is concern that there are no definitions included in this section. The standard should be consistent with the terminology and definitions in the Employment Standards Act (ESA) and the Ontario Human Rights Code (OHRC) which both address employers' requirements and employee rights when developing accommodation plans. The role of employees in the development of plans must be consistent with the above legislation in order to ensure consistency between legislation.

Experience indicates that in some cases where the accommodation is of a short-term nature that fully documented plans as outlined in the draft standard may not be necessary and will cause unnecessary administrative work. Some greater flexibility in determining the need for a documented plan should be incorporated into the standard.

In several places, the use of the terms "consults and collaborates" and "participate" (referring to the involvement of an employee in decisions related to the application of the standard) and "where appropriate" are not clear. It is recommended that the words used in the employment standard be consistent with the definitions and use of the terms in the ESA and OHRC legislation so as not to create two standards to which employers must comply.

In Section 26, we would recommend that the following paragraph be included:

In determining whether meeting the requirement of this section is not practicable, the employer may consider, among other things, the availability of commercial software or tools or both.

This articulates considerations that would assist the employer in determining the accessible format or communication support that may be used.

Thank you for the opportunity to provide feedback on the proposed integrated Accessibility Regulation. Should you require further information or clarification, please do not hesitate to contact me at susanna.krimmer@lpl.london.on.ca. We trust that our comments and feedback are helpful and will be considered in this process. London Public Library looks forward to working with the Ministry on the implementation of the standard that will serve the accessibility needs of persons in our communities because of disabilities.

Yours sincerely,

A handwritten signature in cursive script that reads "Susanna Hubbard Krimmer".

Susanna Hubbard Krimmer
CEO & Chief Librarian
London Public Library

cc: Joe Fontana, Mayor, City of London
Chris Bentley, MPP – London West
Deb Matthews, MPP – London North Centre
Khalil Ramal, MPP – London-Fanshawe
Steve Peters, MPP – Elgin-Middlesex-London
David Allen, CEO, Federation of Ontario Libraries